

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: PLOUG, et al.  
 Serial No.: 09/743,329  
 Filed: December 26, 2001  
 For: PEPTIDE ANTAGONISTS OF THE HUMAN UROKINASE RECEPTOR...  
 Confirmation No.: 9896

Art Unit: 1654  
 Examiner: CHISM, B.  
 Washington, D.C.  
 Atty.'s Docket: PLOUG=1  
 Date: March 1, 2004

U.S. Patent and Trademark Office  
 2011 South Clark Place  
 Customer Window  
 Crystal Plaza Two, Lobby, Room 1B03  
 Arlington, Virginia 22202  
 Sir:



Transmitted herewith is an ☐ Amendment ☒ Election with Traverse in the above-identified application.  
☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.  
☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been previously asserted.  
☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.  
☐ No additional fee is required.

The fee has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)	Small Entity		Other Than a Small Entity	
	Claims Remaining After Amendment	Highest No. Previously Paid For	Present Extra	Rate	Additional Fee	
Total	Minus		0	x 9	\$	x18
Indep.	Minus		0	x43	\$	x86
First Presentation of Multiple Dependent Claim				145	\$	+290
TOTAL ADDITIONAL CLAIMS FEE					\$	Total

- \* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.  
 \*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.  
 \*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col.1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time

If any extension of time for a response is required applicant requests that this be considered a petit

☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

- ☐ First - \$ 55.00  
☐ Second - \$ 210.00  
☐ Third - \$ 475.00  
☐ Fourth - \$ 740.00  
☐ Fifth - \$1005.00

Other Than Small Entity

Response Filed Within

- ☐ First - \$ 110.00  
☐ Second - \$ 420.00  
☐ Third - \$ 950.00  
☒ Fourth - \$1480.00  
☐ Fifth - \$2010.00

☐ Less fees (\$ ) already paid for months extension of time on .

☐ Please charge my Deposit Account No. 02-4035 in the amount of \$ . A duplicate copy of this sheet is attached.

☐ A check in the amount of \$ is attached (check no. ).

☒ Credit Card Payment Form, PTO-2038, authorizing payment in the amount of \$1480.00 is attached.

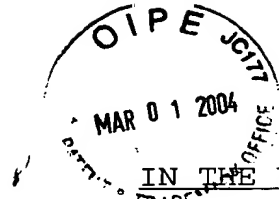
☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR Section 1.16 and all patent processing fees under 37 CFR Section 1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR Section 1.18.

BROWDY AND NEIMARK, P.L.L.C.  
 Attorneys for Applicant(s)

Facsimile: (202) 737-3528  
 Telephone: (202) 628-5197

By:

IWER P. COOPER  
 Registration No. 28,005



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In re Application of:	)	Art Unit: 1654
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PLOUG, et al.	)	Examiner: CHISM, B.
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Serial No.: 09/743,329	)	Washington, D.C.
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Filed: December 26, 2001	)	March 1, 2004
	)	
For: PEPTIDE ANTAGONISTS OF	)	Docket No.: PLOUG=1
THE HUMAN UROKINASE	)	
RECEPTOR AND METHOD...	)	Confirmation No.: 9896

ELECTION WITH TRAVERSE

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S i r :

In response to the restriction requirement mailed October 1, 2003, Applicants elect group I (claims 59-65) with traverse. In response to the species restriction, Applicants elect the peptide DChaFsrYLWS (mentioned in claim 62) with traverse, where "Cha" denote  $\beta$ -cyclohexyl-L-alanine, capital letters designate L-amino acids, and lower case letters denote D-amino acids.

The Examiner concedes that the groups nominally share the special technical feature of the peptide of the claimed formula I, but contends that there is no commonly shared core between the peptides, and hence no true unifying technical feature.

If the Examiner is correct, then the species restriction would be proper, but the group restriction still would not be. That is because, for the elected species DChaFsrYLWS, there would be a common special technical feature (that peptide) unifying the peptide claim of group I, and the methods of use of groups II and III as applied to that peptide.

We also disagree with the assumption that there is no common core structure. By virtue of formula I, the peptide of claim 59 must be at least a 9-mer, and it must have, at a position which is at certain minimum distances from the N- and C-termini, an amino acid corresponding to  $X^2$ .  $X^2$ , in turn, must satisfy general formula IIa and/or general formula IIb. Both IIa and IIb

include an R1 function, which is a 5, 6 or 7-membered nonaromatic rings, attached directly or through 1-3 carbons to the alpha carbon but not to the peptide bond nitrogen. It follows that X<sup>2</sup> is not any of the naturally occurring amino acids, as it cannot then be His, Phe, Trp, Tyr or Pro. Preferred X<sup>2</sup> amino acids include  $\beta$ -cyclopentyl-L-alanine,  $\beta$ -cyclohexyl-L-alanine, and  $\beta$ -cycloheptyl-L-alanine, see P11, L10-12. In the elected peptide species, X<sup>2</sup> is Cha, i.e.,  $\beta$ -cyclohexyl-L-alanine. Likewise, the peptide must have amino acids corresponding to X<sup>3</sup> and X<sup>8</sup> which are hydrophobic, and an amino acid corresponding to X<sup>4</sup> which satisfies general formula IIIa and/or general formula IIIb. the limitation on X<sup>2</sup>, X<sup>3</sup>, X<sup>4</sup> and X<sup>8</sup> define a common core, and there has been no prima facie showing that a peptide satisfying the common core of the claimed peptides is known in the art.

Moreover, even if such a showing were made for claim 59, the examiner would need to likewise address the subgeneric claims 60 and 61.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By: 

Iver P. Cooper  
Reg. No. 28,005

624 Ninth Street, N.W.  
Washington, D.C. 20001  
Telephone: (202) 628-5197  
Facsimile: (202) 737-3528  
IPC:lms  
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